

# **EXHIBIT 18**

Volume 1

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable James Donato, Judge

IN RE GOOGLE PLAY STORE )  
ANTITRUST LITIGATION ) NO. 21-md-02981-JD

THIS DOCUMENT RELATES TO:

Epic Games, Inc. vs. Google LLC, et al., )  
Case No. 3:20-cv-05671-JD )

In Re Google Play Consumer Antitrust )  
Litigation, Case No. 3:20-cv-05671-JD )

State of Utah, et al. v. Google LLC, )  
et al., Case No. 3:21-cv-05227-JD )

Match Group, LLC, et al. vs. Google LLC, )  
et al., Case No. 3:22-cv-02746-JD )

San Francisco, California  
Thursday, January 12, 2023

**TRANSCRIPT OF PROCEEDINGS**

**IN RE EVIDENTIARY HEARING ON CHAT PRESERVATION**

**APPEARANCES:**

For Plaintiff Epic Games in C 20-05671 JD:

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**GARY A. BORNSTEIN, ATTORNEY AT LAW**

**(APPEARANCES CONTINUED ON FOLLOWING PAGE)**

REPORTED BY: Ana Dub, RDR, RMR, CRR, CCRR, CRG, CCG  
CSR No. 7445, Official United States Reporter

1 Q. And you and Mr. Kolotouros discussed this \$200 million  
2 deal over Google Chat; right?

3 A. I don't recall.

4 Q. All right. Let's look at PX-37 in your binder, please,  
5 GOOG-PLAY-001974461, a June 8th, 2019, e-mail between  
6 Mr. Kolotouros and yourself.

7 Please let me know when you're there.

8 A. Yes, I see it.

9 Q. And it may look familiar. It was marked during your  
10 deposition as Exhibit 786. Do you see that?

11 A. Yes.

12 MS. MOSKOWITZ: Your Honor, I move PX-37 into evidence.

13 THE COURT: It's admitted.

14 (Plaintiffs' Exhibit PX-37 received in evidence.)

15 BY MS. MOSKOWITZ:

16 Q. According to your e-mail that you sent at 10:28 a.m. -- do  
17 you see where I am?

18 A. Yes.

19 Q. At 10:28 a.m., you said in this e-mail to Mr. Kolotouros,  
20 quote (as read):

21 "You mentioned in our IM chat yesterday that

22 Samsung broached the topic of asking for rev share on  
23 the Play Store."

24 Do you see that?

25 A. I do.

1 Q. So you're referencing in an e-mail the fact that you had a  
2 Google Chat conversation with Mr. Kolotouros about negotiations  
3 with Samsung; correct?

4 A. Yes.

5 Q. And those chats no longer exist; right?

6 A. I assume they don't.

7 Q. And they no longer exist because when you had those  
8 conversations, your chat history was turned off and so was  
9 Mr. Kolotouros's; correct?

10 A. I can't speak for his, but mine was turned off.

11 Q. You also understood that he kept his off too?

12 A. I -- I didn't -- didn't know that.

13 Q. Okay. All right. Well, we have his testimony.

14 So the only reason we ever knew that these chats even  
15 existed is the mention of them in an instant message -- I'm  
16 sorry -- of an instant message in this e-mail; right?

17 A. I assume so.

18 Q. Okay. Can I get your agreement that the IM chat  
19 referenced in this e-mail was not the only conversation you had  
20 with Mr. Kolotouros about the status of negotiations with  
21 Samsung and other OEMs?

22 A. Not the only conversation --

23 Q. This wasn't the only chat you ever had with him; right?

24 A. I don't -- I don't know if it was.

25 Q. Do you think it was even possible that that was the single

1       **MR. POMERANTZ:** -- the second week of October.

2       **THE COURT:** Add that to your discussion. Okay?

3       **MR. POMERANTZ:** We'll talk to them about it.

4       **THE COURT:** With respect to trial date.

5       **MR. POMERANTZ:** Thank you, Your Honor.

6       **THE COURT:** I can do that.

7       Okay. Thanks so much, and hope to see you soon.

8       **THE CLERK:** All rise. Court is in recess.

9                   (Proceedings adjourned at 3:45 p.m.)

10  
11                   **CERTIFICATE OF REPORTER**

12               I certify that the foregoing is a correct transcript  
13       from the record of proceedings in the above-entitled matter.

14  
15       DATE: Saturday, January 14, 2023

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20       Ana Dub, CSR No. 7445, RDR, RMR, CRR, CCRR, CRG, CCG  
21               Official United States Reporter  
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